

VIA eFILE

PATENT APPLICATION
Docket No: 13768.455

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
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 Keith Ballinger, et al.)
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Serial No.: 10/645,279) Art Unit
) 2416
Filed: August 20, 2003)
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Conf. No.: 7258)
)
For: CUSTOM ROUTING OF OBJECT REQUESTS)
)
Examiner: Chandras B. Patel)
)
Customer No.: 47973)

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT
UNDER 37 CFR 1.181(a)

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.181(a), applicant hereby petitions to withdraw the holding of abandonment of United States Patent Application Serial No. 10/645,279, which was alleged to have become abandoned on April 16, 2009.

A Notice of Abandonment, attached herewith as Exhibit A, was mailed by the U.S. Patent and Trademark Office on February 17, 2010, indicating that the application in question was abandoned due to failure to timely file a response to the Notice of Non-Compliant Amendment mailed on March 16, 2009.

More particularly, the U.S. Patent Office mailed a Notice of Non-Compliant Amendment specifying that no new time period for reply was provided if the amendment was after-final or after allowance only, but did grant a one month period for reply and permit extensions of time pursuant to 37 C.F.R. § 1.136(a) if the non-compliant amendment was, *inter alia*, “a submission for request for continued examination.”

On June 15, 2009, Applicant filed, *inter alia*, a petition pursuant to 37 C.F.R. § 1.137(b) with a fee and statement of unintentional delay, a response to the Notice of Non-Compliant Amendment, a specific request and fee for an extension of one (1) month, and a transmittal including a petition for additional time as necessary to render the filing timely filed, along with an authorization to charge Deposit Account 23-3178 for additional fees as required. The submission of June 15, 2009 is found and available in the file wrapper, although Applicant has attached hereto the transmittal that includes the petition for additional extensions of time and authorization to charge necessary fees as Exhibit B.

On September 18, 2009, the U.S. Patent and Trademark Office responded to the petition to revive the application by dismissing the petition as moot. In particular, the U.S. Patent and Trademark Office stated that due, *inter alia*, to the authorization to charge Deposit Account 23-3178 for fees as required, a “three- (3-) month extension of time was required to make timely the replay to the 16 March, 2009, Notice—which fee is charged in place of the fee paid.” Consequently, the U.S. Patent Office goes on to conclude, “[t]hus, the application was not abandoned [and] the petition is moot.” The decision of the U.S. Patent and Trademark Office dismissing the petition as moot is attached hereto as Exhibit C.

Notably, the basis of the Notice of Abandonment is the very same sequence of events for which the petition to revive was filed, and in light of which the U.S. Patent Office held the petition to be moot as “the application was not abandoned.” Specifically, Applicant made authorization to charge the additional extension of time fees, and a petition therefore, and the U.S. Patent Office acknowledged that payment for a three (3) month extension was charged to Deposit Account 23-3178. In short, a three (3) month extension of time was filed and charged to

extend the period for reply to the March 16, 2009 action until June 16, 2009, rather than only the one (1) month extension referenced in the Notice of Abandonment. Inasmuch as the response was filed June 15, 2009, along with such petition and authorization, the response was timely filed and the Application did not become abandoned.

Therefore, as Applicant's response was timely, the application is not abandoned and the Applicant respectfully submits that the Notice of Abandonment was not only made in error. In addition, the Notice of Abandonment is directly contrary to the prior findings of the U.S. Patent Office that the June 15, 2009 reply was timely and that abandonment of the Application had not occurred. Applicants further submit that the erroneous Notice of Abandonment is not due to any error by Applicants and no fee is due.

CONCLUSION

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment in regard to this matter to Deposit Account No. 23-3178.

In view of the foregoing, Applicants respectfully requests that this Petition to Withdraw the Holding of Abandonment be granted.

Dated this 9th day of March, 2010.

Respectfully submitted,

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